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NRDC
THE EARTH'S BEST DEFENSE

March 27, 2003

To: Office of Enforcement and Compliance Assurance
        Environmental Protection Agency
        MC 2222A
        1200 Pennsylvania Avenue NW
        Washington, DC 20460

Re: Notice of Availability of Enforcement and Compliance History Online Web Site for 60-Day Comment Period

The following comments are submitted on behalf of the United States Public Interest Research Group ("U.S. PIRG") and the Natural Resources Defense Council ("NRDC"), pursuant to the notice given at Federal Register Vol. 67, No. 224, pp. 70079-70080 (20 November 2002). U.S. PIRG is the national lobbying office for the State PIRGs, a nationwide network of non-profit, non-partisan consumer and environmental watchdog organizations. NRDC is a national, non-profit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than 550,000 members nationwide, served from offices in New York, Washington, Los Angeles and San Francisco.

U.S. PIRG filed a Freedom of Information Act request to have information on facility-level Clean Water Act compliance and enforcement information put on the web over one year ago. NRDC and U.S. PIRG are very pleased that EPA has begun the process of making critical data about facility performance available to the public on-line. Making this information available, accurate, and timely will benefit both the regulated community as well as the public. Facilities that regularly comply with the law will have their records opened for all to see and their good track records can be lauded, while facilities that are often in violation of the law will be forced to explain their actions, and thus will likely be more accountable. Because EPA is already maintaining this information, and has even put a pilot project of the data on the web from Region X, there is no logical reason to force members of the public to file a Freedom of Information Act request in order to obtain information that can be easily put on the web in a searchable format. To continue to withhold this information in the age of the Internet is unnecessary, and fails to take advantage of the Internet. Again, we thank EPA for beginning the work to make this information available to the public.

We will address the specific questions you laid out in the Federal Register notice.

(1) Does the site provide meaningful and useful information about the compliance and enforcement program?

The data provided by the detailed facility reports is both meaningful and useful and allows the user to examine, if desired, the compliance of a facility with three of the most important

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environmental statutes. This provides a more comprehensive picture of a facility's adherence to environmental regulations. We will comment in more detail under question (4) on how this information can be made more effective.

All of the information currently provided is essential for understanding the full picture of environmental compliance. In particular:

- The information provided under "Facility Permits and Identifiers," including the facility's address and identification numbers, is essential background for any compliance analysis.
- Under "Facility Characteristics," the SIC code and Permit Expiration Date are extremely useful pieces of information for any public interest organization analyzing compliance trends across industry sectors.
- For "Inspection and Enforcement Summary Data" and "Inspection History," information about when facilities were inspected, by whom, and details about the type of inspection and enforcement action are all necessary to understand the extent of oversight. Information about the assessed penalties is helpful, but since it is not complete, EPA can improve the usefulness of this data point (as detailed below).
- Under "Compliance Summary Data," listing whether the facility is in noncompliance in the current quarter, as well as the number of quarters the facility has been in noncompliance over the previous eight quarters, is a helpful summary of the facility's compliance history under each statute.
- The data provided under "Two Year Compliance Status by Quarter," including information about the facility's compliance, date of non-compliance, and detail about parameter violations—in particular the extent to which the facility exceeded its permit—is all necessary information for rigorous analysis of pollution entering our air and water. EPA can make this section more useful, as explained below.
- The enforcement history provided in "Formal Enforcement Actions" and "EPA Formal Enforcement Cases" is essential to understand enforcement of the Clean Air Act, Clean Water Act and RCRA by state and federal agencies. However, since this information is incomplete, EPA can improve its usefulness, as detailed below.
- The section on "Environmental Conditions," by detailing the receiving waterways, provides valuable context for the effluent discharges permitted under the Clean Water Act, as well as violations.
- The demographic data—including the size and composition of the population living near a discharge point—is useful information for public interest organizations studying how pollution affects public health.

(2) Is the site easy to navigate?

The site is relatively easy to navigate. In particular, the "Data Dictionary" links help the user to interpret the acronyms and data. The search engine provides the user with significant flexibility in performing searches.

However, it is not clear what "Search Logic" means (located at the bottom of the page at http://www.epa.gov/echo/compliance_report.html).

It would be helpful to make the "help text" Data Dictionary pop-up as a separate window so that the user can look at the help text and the data at the same time (just by switching from one window to another).

(3) Does the help text adequately explain the data?

The help text helps to explain the data, but more information and detail can be provided, as explained below and in response to question #4. Again, it would be helpful to make the "help text" pop up as a separate window so that the user can easily refer to the help text while looking at the data at the same time.

• **RCRA Data Dictionary.** The Data Dictionary could be more specific for RCRA; in particular, the Data Dictionary should include explanations for the type of violation. "GENERATOR-PRE-TRANSPORT REQUIREMENTS", for example, is not self-explanatory.

(4) *What additional features, content, and/or modifications would improve the site?*

As stated above, the detailed facility reports contain much information that has not been previously available on the web, and this is an important and positive step towards using the power of the Internet to keep citizens informed and knowledgeable about their environment. The information in the detailed facility reports should include several additional pieces of data in order to maximize the utility of the information.

a) **California Data.** Based on searches of the ECHO site and conversations with EPA officials, it appears that there are significant amounts of data missing from the state of California. If states do not report information on every major facility in their state, the data is compromised, and that appears to be the case for California. The web site should make it very clear that EPA and California have failed to report data on all major facilities, and indicate and name the number of major facilities for which there is no data. EPA and the state of California should be taking active steps to ensure that all data for majors in the state are reported.

b) **Inspection Information under "Inspection History."** There is information regarding inspections, but the "Inspection Type" is not sufficiently clear, nor are there any records of the inspection. More detail needs to be provided on what type of inspection was performed so that citizens can know how thorough of an inspection it was. Was it a random, unannounced inspection? Was it several days or several hours? Was the effluent sampled, and for what parameters? What was learned from the inspection? None of these and many other similar, important questions can be answered from ECHO currently.

c) **Search Return Limitations.** The site should be able to be searched country-wide. The 500 record retrieval limit for a single search is an unfortunate constraint to the site.

d) **Minor Facilities.** Since ECHO allows the user to include minor facilities in the search, it should be made clear how many minor facilities there are in a state, and how many of those facilities are permitted. In addition, when a search is conducted for major and minor facilities, the resulting table should clearly indicate which facilities are major and which are minor, which is not the case currently.

e) **Underlying Data.** In addition to providing the searchable interface, EPA should provide users with the option of downloading the underlying data for each statute. EPA's TRI website, for example, allows the user to use the TRI Explorer to perform simple queries, but allows the user to download the large data files for more complex data analyses (such as counting the number of violations by state, averaging the exceedances; etc).

f) **Clean Water Act violations.**
   • Currently, ECHO provides a percentage to indicate the severity of a Clean Water Act permit exceedance. Although these percentages are useful and should remain, EPA also should provide detail about the amount actually reported as being discharged.
   • The exceedances shown in the table are the "worst" value within the quarter. Generally the permittee will report three times within the quarter (each month). ECHO should include detail for *each* violation during the quarter, not just the worst violation.

g) **Permit Details.** In addition to providing information about the expiration of a facility's CWA, CAA or RCRA permit, EPA should provide details about the permits themselves— for which parameters is the facility permitted, for what quantity; and how frequently the facility has to report.

h) **Time Frame.** EPA's ECHO database should include data for as many years as EPA has it. There is no reason that data should be provided only for the past two years. At minimum, ECHO should show all enforcement actions taken against the facility.

i) **Exporting Capacity.** Users should have the option to print data queries to the screen, as is currently the case, or to a spreadsheet, such as Excel or Access. Again, EPA's TRI Explorer offers a good model for this.

j) **Demographic Search.** Currently, the user can select only "Percent Minority" in the search engine to limit the facilities by demographic. Users should be able to conduct searches by all demographic parameters, including population and income.

k) **Enforcement Actions.** For the "Formal Enforcement Actions" and "EPA Formal Enforcement Cases," EPA should clarify whether these sections include state enforcement actions and the reporting requirements for states. If states are not required to report enforcement actions to EPA, then EPA should make it clear to the ECHO user that empty fields under "Formal Enforcement Actions" do not necessarily mean that the states did not take enforcement action. EPA should move towards including all state enforcement actions in this database as well.

l) **Expanding the CWA Permits Covered.** The Permit Compliance System currently includes information on permits that are not currently available on ECHO. This includes general permits, which often include facilities such as CAFOs and municipal facilities. There is no reason why any information on permitted-facilities included in the PCS database should be excluded from ECHO.

m) **Notice of Violations.** ECHO should include Notices of Violation issued by EPA or states.

n) **Searching by Statute Violation.** It would be useful to be able to search for all of the facilities in a state, for example, that violated their RCRA permits. Currently, the user can specify that the search select facilities with RCRA permits, but the user cannot select only those facilities that violated their RCRA permits.

o) **Information on Receiving Waterbody:** While ECHO does provide the name of the receiving waterbody, it does not allow users to get information about the type of the receiving waterbody (intermittent or ephemeral stream, etc) that effluent is discharged into. For each permitted discharger, ECHO users should be able to obtain this data. This information is particularly important in light of recent agency activity that may remove certain waters from protection under the Clean Water Act.

Thank you for the opportunity to comment on the ECHO site. Again, ECHO will be an invaluable tool for the public interest community interested in enforcement of our country's clean air, clean water and hazardous waste laws.

Sincerely,

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